

# SCOOLIDGE LLP

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March 5, 2018

**VIA ECF**

Hon. Alison J. Nathan  
United States District Judge  
40 Foley Square, Room 2102  
New York, New York 10007

Re: *International Council of Shopping Center, Inc. v. Info  
Quarter LLC*: 17-cv-5526

**Request to File a Sur-Reply in Further Opposition to  
Motion to Dismiss**

Dear Judge Nathan:

Plaintiff ICSC respectfully requests leave to file a sur-reply brief in further opposition to Defendants' motion to dismiss. Defendants' Reply Memorandum of Law has raised new arguments that ICSC should have an opportunity to address. For example, Defendants, despite being on notice of this fact for almost a year, have for the first time asserted that ICSC's status as an Illinois entity has some bearing on the issues before the Court. *See* Reply Br. (EFC No. 52) at 4. Defendants have also cited new cases in support of their position that the fact-intensive fair use analysis should be decided at the pleading stage. *Id.* at 6-7. Further, Defendants have now made so many factual assertions in support of their motion to dismiss (e.g., the location of the New York Times entity with which they did business, whether Defendant Sankalp Shettar communicated with New York customers, *see id.* at 6-8) that ICSC is entitled to jurisdictional discovery. ICSC's sur-reply will set forth a detailed request supported by case law for such discovery. ICSC respectfully requests an 8-page limit and a deadline of Friday, March 16, 2018, to file the proposed sur-reply.

Sincerely,



Peter Scoolidge

cc: Counsel Listed on ECF